

1-1 By: West S.B. No. 1630  
1-2 (In the Senate - Filed March 8, 2013; March 20, 2013, read  
1-3 first time and referred to Committee on State Affairs;  
1-4 April 17, 2013, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 17, 2013,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Duncan	X		
1-10	Deuell	X		
1-11	Ellis	X		
1-12	Fraser	X		
1-13	Huffman	X		
1-14	Lucio	X		
1-15	Nichols	X		
1-16	Van de Putte	X		
1-17	Williams	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1630 By: Deuell

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the protection of defendants against vexatious  
1-22 litigants.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subdivision (5), Section 11.001, Civil Practice  
1-25 and Remedies Code, is amended to read as follows:

1-26 (5) "Plaintiff" means an individual who commences or  
1-27 maintains a litigation pro se.

1-28 SECTION 2. Subchapter A, Chapter 11, Civil Practice and  
1-29 Remedies Code, is amended by adding Section 11.002 to read as  
1-30 follows:

1-31 Sec. 11.002. APPLICABILITY. (a) This chapter does not  
1-32 apply to an attorney licensed to practice law in this state unless  
1-33 the attorney proceeds pro se.

1-34 (b) This chapter does not apply to a municipal court.

1-35 SECTION 3. Section 11.054, Civil Practice and Remedies  
1-36 Code, is amended to read as follows:

1-37 Sec. 11.054. CRITERIA FOR FINDING PLAINTIFF A VEXATIOUS  
1-38 LITIGANT. A court may find a plaintiff a vexatious litigant if the  
1-39 defendant shows that there is not a reasonable probability that the  
1-40 plaintiff will prevail in the litigation against the defendant and  
1-41 that:

1-42 (1) the plaintiff, in the seven-year period  
1-43 immediately preceding the date the defendant makes the motion under  
1-44 Section 11.051, has commenced, prosecuted, or maintained [~~in~~  
1-45 ~~propria persona~~] at least five litigations as a pro se litigant  
1-46 other than in a small claims court that have been:

1-47 (A) finally determined adversely to the  
1-48 plaintiff;

1-49 (B) permitted to remain pending at least two  
1-50 years without having been brought to trial or hearing; or

1-51 (C) determined by a trial or appellate court to  
1-52 be frivolous or groundless under state or federal laws or rules of  
1-53 procedure;

1-54 (2) after a litigation has been finally determined  
1-55 against the plaintiff, the plaintiff repeatedly relitigates or  
1-56 attempts to relitigate, pro se [~~in propria persona~~], either:

1-57 (A) the validity of the determination against the  
1-58 same defendant as to whom the litigation was finally determined; or

1-59 (B) the cause of action, claim, controversy, or  
1-60 any of the issues of fact or law determined or concluded by the

2-1 final determination against the same defendant as to whom the  
2-2 litigation was finally determined; or

2-3 (3) the plaintiff has previously been declared to be a  
2-4 vexatious litigant by a state or federal court in an action or  
2-5 proceeding based on the same or substantially similar facts,  
2-6 transition, or occurrence.

2-7 SECTION 4. Section 11.101, Civil Practice and Remedies  
2-8 Code, is amended by amending Subsection (a) and adding Subsections  
2-9 (d) and (e) to read as follows:

2-10 (a) A court may, on its own motion or the motion of any  
2-11 party, enter an order prohibiting a person from filing, pro se [~~in~~  
2-12 ~~propria persona~~], a new litigation in a court to which the order  
2-13 applies under this section without permission of the appropriate  
2-14 local administrative judge described by Section 11.102(a) to file  
2-15 the litigation [~~in this state~~] if the court finds, after notice and  
2-16 hearing as provided by Subchapter B, that[+]

2-17 [~~(1)~~] the person is a vexatious litigant[+, and

2-18 [~~(2)~~] the local administrative judge of the court in  
2-19 which the person intends to file the litigation has not granted  
2-20 permission to the person under Section 11.102 to file the  
2-21 litigation].

2-22 (d) A prefiling order entered under Subsection (a) by a  
2-23 justice or constitutional county court applies only to the court  
2-24 that entered the order.

2-25 (e) A prefiling order entered under Subsection (a) by a  
2-26 district or statutory county court applies to each court in this  
2-27 state.

2-28 SECTION 5. Section 11.102, Civil Practice and Remedies  
2-29 Code, is amended to read as follows:

2-30 Sec. 11.102. PERMISSION BY LOCAL ADMINISTRATIVE JUDGE.

2-31 (a) A vexatious litigant subject to a prefiling order under  
2-32 Section 11.101 is prohibited from filing, pro se, new litigation in  
2-33 a court to which the order applies without seeking the permission  
2-34 of:

2-35 (1) the local administrative judge of the type of  
2-36 court in which the vexatious litigant intends to file, except as  
2-37 provided by Subdivision (2); or

2-38 (2) the local administrative district judge of the  
2-39 county in which the vexatious litigant intends to file if the  
2-40 litigant intends to file in a justice or constitutional county  
2-41 court.

2-42 (b) A vexatious litigant subject to a prefiling order under  
2-43 Section 11.101 who files a request seeking permission to file a  
2-44 litigation shall provide a copy of the request to all defendants  
2-45 named in the proposed litigation.

2-46 (c) The appropriate local administrative judge described by  
2-47 Subsection (a) may make a determination on the request with or  
2-48 without a hearing. If the judge determines that a hearing is  
2-49 necessary, the judge may require that the vexatious litigant filing  
2-50 a request under Subsection (b) provide notice of the hearing to all  
2-51 defendants named in the proposed litigation.

2-52 (d) The appropriate [A] local administrative judge  
2-53 described by Subsection (a) may grant permission to a [person found  
2-54 to be a] vexatious litigant subject to a prefiling order under  
2-55 Section 11.101 to file a litigation only if it appears to the judge  
2-56 that the litigation:

2-57 (1) has merit; and

2-58 (2) has not been filed for the purposes of harassment  
2-59 or delay.

2-60 (e) [~~(b)~~] The appropriate local administrative judge  
2-61 described by Subsection (a) may condition permission on the  
2-62 furnishing of security for the benefit of the defendant as provided  
2-63 in Subchapter B.

2-64 (f) [~~(c)~~] A decision of the appropriate [a] local  
2-65 administrative judge described by Subsection (a) denying a litigant  
2-66 permission to file a litigation under Subsection (d) [~~(a)~~], or  
2-67 conditioning permission to file a litigation on the furnishing of  
2-68 security under Subsection (e) [~~(b)~~], is not grounds for appeal,  
2-69 except that the litigant may apply for a writ of mandamus with the

3-1 court of appeals not later than the 30th day after the date of the  
3-2 decision. The denial of a writ of mandamus by the court of appeals is  
3-3 not grounds for appeal to the supreme court or court of criminal appeals.

3-4 SECTION 6. The heading to Section 11.103, Civil Practice  
3-5 and Remedies Code, is amended to read as follows:

3-6 Sec. 11.103. DUTIES OF CLERK[~~, MISTAKEN FILING~~].

3-7 SECTION 7. Subsections (a), (c), and (d), Section 11.103,  
3-8 Civil Practice and Remedies Code, are amended to read as follows:

3-9 (a) Except as provided by Subsection (d), a clerk of a court  
3-10 may not file a litigation, original proceeding, appeal, or other  
3-11 claim presented, pro se, by a vexatious litigant subject to a  
3-12 prefiling order under Section 11.101 unless the litigant obtains an  
3-13 order from the appropriate local administrative judge described by  
3-14 Section 11.102(a) permitting the filing.

3-15 (c) If the appropriate local administrative judge described  
3-16 by Section 11.102(a) issues an order permitting the filing of the  
3-17 litigation [under Subsection (b)], the litigation remains stayed  
3-18 and the defendant need not plead until the 10th day after the date  
3-19 the defendant is served with a copy of the order.

3-20 (d) A clerk of a court of appeals may file an appeal from a  
3-21 prefiling order entered under Section 11.101 designating a person a  
3-22 vexatious litigant or a timely filed writ of mandamus under Section  
3-23 11.102 [11.102(c)].

3-24 SECTION 8. Subchapter C, Chapter 11, Civil Practice and  
3-25 Remedies Code, is amended by adding Section 11.1035 to read as  
3-26 follows:

3-27 Sec. 11.1035. MISTAKEN FILING. (a) If the clerk  
3-28 mistakenly files litigation presented, pro se, by a vexatious  
3-29 litigant subject to a prefiling order under Section 11.101 without  
3-30 an order from the appropriate local administrative judge described  
3-31 by Section 11.102(a), any party may file with the clerk and serve on  
3-32 the plaintiff and the other parties to the litigation a notice  
3-33 stating that the plaintiff is a vexatious litigant required to  
3-34 obtain permission under Section 11.102 to file litigation.

3-35 (b) Not later than the 24th hour after receiving notice that  
3-36 a vexatious litigant subject to a prefiling order under Section  
3-37 11.101 has filed, pro se, litigation without obtaining an order  
3-38 from the appropriate local administrative judge described by  
3-39 Section 11.102(a), the clerk shall notify the court that the  
3-40 litigation was mistakenly filed. On receiving notice from the  
3-41 clerk, the court shall immediately stay the litigation and shall  
3-42 dismiss the litigation unless the plaintiff, not later than the  
3-43 10th day after the date the notice is filed, obtains an order from  
3-44 the appropriate local administrative judge described by Section  
3-45 11.102(a) permitting the filing of the litigation.

3-46 (c) An order dismissing litigation that was mistakenly  
3-47 filed by a clerk may not be appealed.

3-48 SECTION 9. Section 11.104, Civil Practice and Remedies  
3-49 Code, is amended by adding Subsection (c) to read as follows:

3-50 (c) The Office of Court Administration of the Texas Judicial  
3-51 System may not remove the name of a vexatious litigant subject to a  
3-52 prefiling order under Section 11.101 from the agency's Internet  
3-53 website unless the office receives a written order from the court  
3-54 that entered the prefiling order or from an appellate court. An  
3-55 order of removal affects only a prefiling order entered under  
3-56 Section 11.101 by the same court. A court of appeals decision  
3-57 reversing a prefiling order entered under Section 11.101 affects  
3-58 only the validity of an order entered by the reversed court.

3-59 SECTION 10. Subdivision (3), Section 11.001, and Subsection  
3-60 (b), Section 11.103, Civil Practice and Remedies Code, are  
3-61 repealed.

3-62 SECTION 11. The change in law made by this Act applies only  
3-63 to an action commencing on or after the effective date of this Act.  
3-64 An action commencing before the effective date of this Act is  
3-65 governed by the law as it existed on the date when the action  
3-66 commenced, and that law is continued in effect for that purpose.

3-67 SECTION 12. This Act takes effect September 1, 2013.